



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,074	12/22/2000	Josh Ellinger	EXEM-25,499	3243

25883 7590 06/22/2004

HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS, TX 75374-1715

EXAMINER

VAN DOREN, BETH

ART UNIT PAPER NUMBER

3623

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/748,074

Applicant(s)

ELLINGER ET AL.

Examiner

Beth Van Doren

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a non-final, first office action on the merits. Claims 1-49 are pending.

Claim Objections

2. Claim 17 is objected to because lines 16-17 contain a grammatical error. The phrase "an statistical result" should more appropriately be "a statistical result". Correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10, 26, and 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 10, 26, and 41 recite the limitation "the step of modifying the request". There is insufficient antecedent basis for this limitation in each instance. None of the claims on which claims 10, 26, and 41 are dependant recite a step of modifying. For examination purposes, the limitation has been construed as --a step of modifying the request-- in each instance.

Clarification is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Jackson et al.
(Strategic Database Marketing).

6. As per claim 1, Jackson et al. teaches a method for tracking analytical information acquired during consumer transactions, comprising the steps of:

conducting a commercial transaction between a customer and a vendor (See at least pages 40 and 86-89, wherein a commercial transaction has occurred);

creating a record of each of the transactions conducted between the customer and the vendor (See at least pages 40, 158-161, and 173-174, which disclose creating a record of the transactions);

storing the created record of the commercial transaction in a vendor transaction database (See at least pages 120-122, 158-161, and 173-174, which disclose creating a record of the transactions and storing them in a vendor database);

retrieving the created record from the vendor transaction database (See at least pages 120-122, 158-161, and 173-174, wherein the records would be retrieved);

retrieving from an enhancing database information relating to information retrieved from the vendor transaction database (See at least pages 86-89, 91, and 94-54, which discusses enhancing data and storing the information. See also pages 173-174, 177, 179, and 182-183);

storing the combination of the retrieved records from the vendor transaction database and the retrieved information from the enhancing database as aggregate data in an aggregate database in a relational manner (See at least pages 86-89, 91, and 94-54, which discusses enhancing data and storing the information. See also pages 173-174, 177, 179, and 182-183); and

performing an analysis on the aggregate data stored in the aggregate database in accordance with a predetermined analytical algorithm to provide an analytical result (See at least pages 86-89, 162, and 173-174, 177, 179, and 182-183, which discusses performing analytical functions on the data stored in the database).

7. As per claim 2, Jackson et al. teaches a method further comprising the step of accessing the analytical result and displaying such accessed analytical result (See at least page 175, which shows an analytical result of the analysis).
8. As per claim 3, Jackson et al. teaches a method further comprising the step of modifying the predetermined analytical result (See at least page 161-162, which discusses updating the data in the database and re-researching the data).
9. As per claim 4, Jackson et al. teaches a method wherein there are provided a plurality of records stored in the vendor transaction database (See at least pages 120-122, 158-162, and 173-174, wherein a plurality of records are stored).
10. As per claim 5, Jackson et al. teaches a method wherein the step of retrieving comprises the step of retrieving a plurality of records from the vendor transaction database (See at least pages 120-122, 158-161, and 173-174, wherein the records would be retrieved).
11. As per claim 6, Jackson et al. teaches a method wherein the step of retrieving operates in response to receiving a request for one or more of the stored records in the vendor transaction database (See at least pages 120-122, 158-161, and 173-174, wherein the records are requested).
12. As per claim 7, Jackson et al. teaches a method wherein the request comprises a fixed number of records (See at least pages 173 and 183 which discuss a fixed number of records).

Art Unit: 3623

13. As per claim 8, Jackson et al. teaches a method wherein the request comprises a time range of records (See at least pages 161-162, which discusses the time range of the records).
14. As per claim 9, Jackson et al. teaches a method wherein the request comprises a date range of records (See at least pages 40-41 and 161-162, which discusses the date range of the records).
15. As per claim 10, Jackson et al. teaches a method further comprising a step of modifying the request as a function of the number of commercial transactions being conducted (See at least pages 40-42 and 162-164, which discuss identifying repeat customers).
16. As per claim 11, Jackson et al. teaches method wherein the step of retrieving operates in response to the creation of one or more of the records in accordance with predetermined criteria (See at least pages 86-89, 158-162, 173-174, 177, 179, and 182-183, which all discuss creating records in accordance with predetermined criteria (such as customer attributes, number of records needed, etc.)).
17. As per claim 12, Jackson et al. teaches a method wherein the predetermined criteria comprises the receipt of a fixed number of records since the last retrieval step (See at least pages 161, 179, and 182-183, which discuss sampling and using a fixed group of records).
18. As per claim 13, Jackson et al. teaches method wherein the predetermined criteria comprises time criteria such that records are retrieved after a predetermined amount of time from a last retrieval operation (See at least pages 40-41 and 161-162, which discusses updating records).
19. As per claim 14, Jackson et al. teaches a method wherein the predetermined criteria comprises date criteria such that the step of retrieving operates in accordance with predetermined

Art Unit: 3623

dates (See at least pages 40-41 and 161-162, which discusses updating records based on the time/date of the records).

20. As per claim 15, Jackson et al. teaches a method wherein each record is retrieved upon creation thereof (See at least pages 86-89, 158-162, 173-174, 177, 179, and 182-183).

21. As per claim 16, Jackson et al. teaches a method wherein the predetermined analytical algorithm comprises a statistical analysis algorithm and wherein the step of performing the analysis comprises statistically analyzing the aggregate data (See at least pages 158-162, 173-174, 177, 179, and 182-183, all of which discuss statistical analysis of the aggregate data).

22. As per claim 17, Jackson et al. teaches a method for analyzing transaction information in association with a plurality of commercial transactions between a plurality of customers and a vendor, comprising the steps of:

creating a transaction database of the commercial transactions between the plurality of customers and the vendor, which transaction database includes information relating to the transactions and the associated customers (See at least pages 40, 86-89, 158-161, and 173-174, which disclose creating records of the transactions in a database);

extracting a select portion of the transaction database and creating an intermediate aggregate database including information relating to the transactions and the associated customers (See at least pages 120-122, 158-161, and 173-174, wherein the records would be retrieved);

interfacing with an enhancing database having demographic contained therein that is associated with the customers in the intermediate aggregate database (See at least pages 86-89,

91, and 94-54, which discusses enhancing data and storing the information. See also pages 173-174, 177, 179, and 182-183),

extracting demographic information from the enhancing database corresponding to a select portion of the intermediate aggregate database for addition thereto that defines a new and aggregate database (See at least pages 86-89, 91, and 94-54, which discusses enhancing data and storing the information. See also pages 173-174, 177, 179, and 182-183); and

performing a statistical analysis on the aggregate database in accordance with a predetermined statistical analysis algorithm to provide a statistical result (See at least pages 86-89, 162, and 173-174, 177, 179, and 182-183, which discusses performing statistical functions on the data stored in the database).

23. As per claim 18, Jackson et al. teaches a method further comprising the step of accessing the statistical result and displaying such accessed statistical result (See at least page 175, which shows a statistical result of the analysis).

24. As per claim 19, Jackson et al. teaches a method further comprising the step of modifying the predetermined statistical analysis algorithm (See at least page 161-162, which discusses updating the data in the database and re-researching the data).

25. As per claims 20-31, claims 20-31 contain equivalent limitations to claims 4-15, respectively, and are therefore rejected using the same art and rationale as applied in the rejection of claims 4-15, respectively.

26. As per claim 32, Jackson et al. teaches a method for tracking analytical information acquired during commercial transactions between a plurality of customers and a vendor, which vendor is operable to create a record of each of the transactions conducted between the customer

Art Unit: 3623

and the vendor and store the created record of the commercial transaction in a vendor transaction database, comprising the steps of:

retrieving the created record from the vendor transaction database (See at least pages 120-122, 158-161, and 173-174, wherein the records would be retrieved);

retrieving from an enhancing database information relating to information retrieved from the vendor transaction database (See at least pages 86-89, 91, and 94-54, which discusses enhancing data and storing the information. See also pages 173-174, 177, 179, and 182-183);

storing the combination of the retrieved records from the vendor transaction database and the retrieved information from the enhancing database as aggregate data in an aggregate database in a relational manner (See at least pages 86-89, 91, and 94-54, which discusses enhancing data and storing the information. See also pages 173-174, 177, 179, and 182-183); and

performing an analysis on the aggregate data stored in the aggregate database in accordance with a predetermined analytical algorithm to provide an analytical result (See at least pages 86-89, 162, and 173-174, 177, 179, and 182-183, which discusses performing analytical functions on the data stored in the database).

27. As per claims 33-47, claims 33-47 contain equivalent limitations to claims 2-16, respectively, and are therefore rejected using the same art and rationale as applied in the rejection of claims 2-16, respectively.

28. As per claim 48, Jackson et al. teaches a method for monitoring commercial transactions at a vendor location, comprising the steps of:

accessing over a network a remote location therefrom (See at least pages 120-122 and 130-133);

retrieving trend data therefrom indicative of the commerce trends that occur at the vendor location (See at least pages 120-122, 130-133, 182-183, wherein the data of the database can be retrieved); and

displaying the accessed trend data (See at least pages 130, 173-175, 177, 179, and 182-183);

wherein the trend data is comprised of commercial transaction data that represents record data of each transaction between the vendor at the vendor location and a customer that is enhanced with enhancing data different than the record data and the combined record data and enhancing data subjected to a predetermined trend algorithm to provide the trend data (See at least pages 86-89, 91, and 94-54, which discusses enhancing data and storing the information. See also pages 173-174, 177, 179, and 182-183).

29. As per claim 49, Jackson et al. teaches a method wherein the trend data is updated on a periodic basis (See at least pages 40-41 and 161-162, which discusses updating information).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cragun et al. (U.S. 6,622,125) teaches a customer purchasing items and a neural network that uses this transaction data to make analytical decisions concerning the customer.

Cragun et al. (U.S. 5,774,868) discloses demographic and transaction data and identifying sales opportunities using this data.

Anderson et al. (U.S. 5,974,396) discloses a tool for gathering customers purchase activities and product information and performing clustering.

Art Unit: 3623

Walter et al. (U.S. 6,334,110) teaches analyzing customers transactions and classifying the customers using this and other data.

Nash (*Database Marketing*) discloses using data known about customers to perform analytical and statistical analysis.

"Exemplar Technologies" (www.exemplartech.com) discloses screenshots of exemplar technologies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ewd
bvd
June 10, 2004


TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600